

GOVERNMENT OF TELANGANA  
ABSTRACT

Tribal Welfare Department – Erstwhile Khammam District– Appeal Petition filed by Sri Pothula Srinivasa Rao S/o.Late Seshagiri, Occupation: Record Assistant, Sri Seetharama chandraswamy Vari Devasthanam, R/o.H.No. 6-1-88, Pothulvari Street, Bhadrachalam, Erstwhile Khammam District now Bhadradi Kothgudem District, under Section 7(2) of the Act 16 of 1993, against the orders of the District Collector, Khammam in Proceedings Rc.No.D3-2702/2003, dated 14.06.2011 – Appeal Dismissed - Orders – Issued.

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TRIBAL WELFARE (LTR) DEPARTMENT

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G.O.Ms.No. 18

Dated: 15-06-2023,  
Read the following:-

1. Proceedings Rc.No.D3-2702/2003, dated 14.06.2011 of the Collector & District Magistrate, Khammam District.
2. Appeal Petition filed by Sri Pothula Srinivasarao S/o Seshagiri Rao, Record Asst., Sri Seetharamachandra swamy Vari Devasthanam, R/o.H.No.6-1-88, Pothulvari Street, Bhadrachalam, Khammam District now Bhadradi Kothgudem District dated 03.07.2011.
3. Govt. Memo.No.10157/CV.2/2011, dated 21.07.2011.
4. Orders of the Hon'ble High Court in WP.No.21831 of 2011, dated 11.08.2011.
5. Govt.Memo.No.10157/CV.2/2011, dated 22.09.2011 & 09.01.2012.
6. From the District Collector, Khammam, letter Rc.No.D3/ 2702/2003, dated -04-2012.
7. Govt.Memo.No.10157/TW.LTR/2011, dated 27.5.2016 and 14.09.2018.
8. From the Director, TCR&TI, TS, Hyderabad, letter Rc.No. 1117/2017/TRI/TSV/VC-7, dated 02.04.2019 and 23.07.2019.
9. Govt.Letter No.10157/TW.LTR/2011, dated 25.11.2019, 20.12.2019, 14.02.2020 and 21.09.2020.

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ORDER:

In the reference 1<sup>st</sup> read above, the Collector & District Magistrate, Khammam District had rejected the claim for issue of "KONDAKAPU" ST caste certificate of the Appellant Sri Pothula Srinivasarao S/o. Seshagiri Rao, Occupation: Record Assistant, Sri Seetharamachandra Swamy Vari Devasthanam, R/o.H.No.6-1-88, Pothulvari Street, Bhadrachalam, Erstwhile Khammam District now Bhadradi Kothgudem District, and also ordered to initiate departmental disciplinary proceedings against the claimants and also to book a cheating/criminal cases under provision contained in sections 10,11 and 12 of the Act 16/93, and to award an exemplary capital punishment despite criminal action. The gist of the cancellation orders is as follows:

- Earlier enquiries conducted by the Director, TCR&TI, AP, Hyderabad revealed that the people who were residents of Bhadrachalam Town and having surnames of Pothula, Bonala, Danthala belong to KAPU caste but not KONDAKAPU caste.
- His cousin sister Smt.Pothula Seetha Devi who retired as Deputy Mandal Revenue Officer belongs to KAPU community. Smt.Ramadevi, Vijayalaxmi and Vijayasree, sisters of Sri Pothula SrinivasaRao married people from Kapu BC community. He worked as Record Assistant and got the said job under OC quota.
- His genealogical tree also did not support his claim and his deposition before the DLSC did not match with KONDAKAPU caste claim except his verbal deposition that he belongs to KONDAKAPU caste. He has no knowledge about customs and traditions of KondaKapu. Gothram of his father and mother is PYDIPALA which is not relate to KONDAKAPU community. Any of his family members and himself not having matrimonial relations with KONDAKAPU community people and even his maternal uncle belongs to MUNNURU KAPUY community. He married

(Contd...2)

Smt.Madhavi who also belongs to MUNNURRU KAPU community and her paternal Surname is Mallam. The DLSC unanimously straightaway decided to strike down his claim declaring that he does not belong to KONDAKAPU but belongs to KAPU community.

- The Brochure on 'Reservation for Scheduled Castes and Scheduled Tribes in Services' has found that taking advantage of the slight variations in the descriptions of caste names like KAMMA-KAMMARA, KAPU-NAYAKAPU/ KONDAKAPU, REDDY-KONDA REDDY, AYYERUKALAYERUKALA, GOUD-GOUNDLA etc., it is not uncommon that community certificates are obtained so as to claim the reservation and other educational benefits.
- In this present even, if it is considered that statement of Sri P.Srinivas Rao which clearly go to show that he has no knowledge about the traits or the peculiar customs and traditions of KONDAKAPU Tribe, after minutely considering the material on record, the Scrutiny Committee came to conclusion that Sri P.SrinivasaRao had failed to prove his claim to KONDAKAPU Tribe.
- Taking into consideration all the material on record, it is not possible to justify his claim of being Scheduled Tribe. Moreover the burden of proving the community status of the person is on the person who claims such a status.

2. Aggrieved by the above cancellation orders of the Collector & District Magistrate, Khammam in the reference 1<sup>st</sup> read above, the Appellant Sri Pothula Srinivasarao S/o. Seshagiri Rao, Occupation: Record Assistant, Sri Seetharamachandra Swamy Vari Devasthanam, R/o.Bhadrachalam, Erstwhile Khammam District now Bhadradi Kothgudem District now Bhadradi Kothgudem District has filed the Appeal petition under the Act 16 of 1993 in the reference 2<sup>nd</sup> read above along with the Affidavit deposing as under:

- i) He belongs to Scheduled Tribe (Kondakapu). His father late Pothula Seshagiri Rao, grandfather Pothula Seshiah and his ancestors are the original residents of Bhadrachalam village and centuries together other families are in existence in the tribal areas. The community of Kondakapus was notified as Aboriginal Tribe/Scheduled Tribe and is in existence in East Godavari District. Till 1959 Bhadrachalam was part and parcel of East Godavari District. His father was appointed as Lower Division Clerk in the Agriculture Department by Andhra Pradesh Public Service Commission in the year 1955 under ST quota and retired from service in the year 1984 from the O/o. Deputy Director of Agriculture, Bhadrachalam.
- ii) Even his school records since 1966 onwards, his community was recorded as KondaKapu and he belongs to the same community. As on this date, he has not availed any facility under ST community.
- iii) He made an application to the Mandal Revenue Officer, Bhadrachalam for issuance of KondaKapu community certificate on 24.7.2001. The Bhadrachalam dated 28.11.2001 which is an exparte one, decided that he does not belong to KondaKapu caste and there are no KondaKapu community people in Bhadrachalam Mandal. It is also stated that the Surname with Pothula belongs to Kapu community which is treated as forward caste (OC). Thus, his request was rejected by his orders dt.13.6.2003. Before rejecting on 13.12.2001 the Mandal Revenue Officer, Bhadrachalam addressed a letter to the District Collector, Khammam seeking clarification whether KondaKapu is existing in Khammam District or not? When his claim was not considered even earlier, he filed Writ Petition No.21691 of 2002 before the Honourable High Court and the Hon'ble Court directed the Mandal Revenue Officer to complete the process of enquiry for issuance of caste certificate within 4 months. Therefore, he had filed Contempt Case when the said directions were not implemented. It is only in those circumstances, his claim was rejected by orders dated 13.6.2003.

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- iv) Thereafter, he filed an Appeal before the District Collector under the provisions of the Act, 1993 (Act 16 of 1993). The ground taken in the said Appeal may be treated as part and parcel of this affidavit. The District Collector, Khammam, after lapse of 7 years, based on various reports of the Sub Collector, Bhadrachalam dated 1.9.2004 and 14.12.2007 rejected his request and further directed for initiation of departmental disciplinary proceedings and booking Criminal Case against him under the provisions contained in Sections 10, 11 and 12 of the Act 16/93. It was also stated that an exemplary capital punishment must be awarded to him despite criminal action. The copy of the order was communicated to the Superintendent of Police, Khammam and also various authorities including his employer i.e. Sri Seetharamachandra Swamy Devasthanam, Bhadrachalam. In view of such serious findings given by the District Collector, at any time Criminal case will be registered besides initiating departmental disciplinary proceedings for removing him from service.
- v) The action of the District Collector, Khammam and the Mandal Revenue Officer, Bhadrachalam in rejecting the claim is illegal, arbitrary, erroneous and contrary to the provisions of the Act 16 of 1993 and the principles of natural justice and also in violation of Article 14, 16 and 21 of the Constitution of India.
- vi) He is presently working as Record Assistant at Sri Seetha ramachandra Swamy Vari Devasthanam, Bhadrachalam and he is a permanent employee obtained employment under OC category. His claim for issuing ST caste certificate is pending and he has not availed any benefit as on this date under the said Quota. Unless the Government suspends orders, he will suffer irreparable loss and damages.
- vii) In the aforesaid circumstances, he prayed the Honourable Government to please call for records relating to and in connection with the orders passed by the District Collector in Rc.No.D3-2702/2003, dated 14.6.2011 including the orders passed by the Mandal Revenue Officer, Bhadrachalam in Rc.No.E/2139/2001 dated 13.6.2003 and to quash the same as arbitrary, illegal and in utter violation of the principles of natural justice and contrary to the provisions of Act 16/1993 and consequently declare that he is entitled for issuance of ST community certificate of KondaKapu.

3. The following Appeal grounds have been made by the Appellant in the Appeal:

- i) Impugned orders of the District Collector, Khammam passed in Rc.No.D3-2702/2003, dated 14.6.2011 are contrary to law and probabilities of the case.
- ii) While rejecting the claim for granting KondaKapu ST community certificate by the Mandal Revenue Officer, Bhadrachalam in his orders dated 13.6.2003, the report submitted by the Mandal Revenue Inspector-I, Bhadrachalam dated 28.11.2001 was relied upon. The said authority conducted enquiry behind the back of the appellant without giving any opportunity. The copy of the said report dated 28.11.2001 was not communicated to the appellant. The said material which is adverse to the Appellant was acted upon without communicating the same and also without permitting the appellant to participate in the enquiry conducted by the Mandal Revenue Inspector-I, Bhadrachalam and thereby taking into account of such adverse material before rejecting the claim of the Appellant, is arbitrary, illegal and erroneous, in violation of principles of natural justice and also contrary to the law laid down by the Honourable High Court in catena of decisions.

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- iii) After filing the Appeal by the appellant on 22.7.2003, the Collector's office by orders dated 9.8.2003 asked the Mandal Revenue Officer, Bhadrachalam to submit para-wise remarks. The said authority through Sub-Collector, Bhadrachalam submitted his para-wise remarks on 1.9.2004 stating that the applicant do not belong to KondaKapu community. It is also stated that the Director (TCR&TI) AP Hyderabad has informed that earlier they have conducted enquiries into the community claim of Pothula Surname persons are not belong to Kondakapu community but belong to Kapu caste. It is also stated that the surname of Pothula, Bonala, Danthala who were residents of Bhadrachalam Town belong to Kapu caste. It is also stated that the cousin sister of the appellant Smt.PothulaSeetha Devi belongs to Kapu community.
- iv) Therefore, the District Collector, relied upon the para-wise remarks of the Mandal Revenue Officer communicated through the Sub Collector, Bhadrachalam on 1.9.2004 and the material furnished by the Director (TCR&TI), AP Hyderabad have come to the conclusion that the Appellant does not belong to KondaKapu community. Even the above document was not communicated to him though it is adverse to him. Acting upon the adverse material without communicating the same, is illegal, arbitrary and also the laid down by the Hon'ble High Court.
- v) The District Collector, Khammam once again relied upon the report submitted by the Sub-Collector, Bhadrachalam dated 14.12.2007 stating that the Mandal Revenue Officer, Bhadrachalam has reported that there is nobody by surname Pothula in ST community of KondaKapu. The report of the Sub Collector also provides that for initiation of criminal case against the appellant and requested the District Collector, Khammam in this regard. Thereafter, the District Collector passed an order rejecting the claim with a direction for filing criminal case and initiation of departmental disciplinary proceedings quoting sections 10, 11 and 12 of the Act 16/93 and thereby, it is clear that various reports were obtained behind the back of the Appellant for taking into account without giving any such material to the appellant and without offering objections of the Appellant in this regard. The said action on the part of the District Collector in relying upon the reports of the lower authorities is contrary to the laid down by the Honourable High Court reported in 1990 (3) ALT 355, 1991 (3) ALT 252 and the laid down by the Hon'ble Apex Court reported in 1998 SC 1309 and thereby the impugned orders are illegal and arbitrary.
- vi) Once the Statutory Appeal is provided the same is to be treated as an effective remedy in respect of grievance. The said statutory appeal now made an empty formality. The appellate authority just relied upon the remarks/reports from the lower authorities including the authority who earlier rejected, which is highly illegal, erroneous and objectionable, the questions of calling for the remarks from the authority against whom the appeal is filed, is illegal.
- vii) All the documents filed for proving that the Appellant belongs to KondaKapu were not taken into account and mechanically the appeal was rejected by making findings which are totally unwarranted under law. The Appellate Authority quoted Sections 10, 11 and 12 of the Act 16/93 for initiating criminal case and also for initiating departmental disciplinary proceedings. The above three sections quoted, absolutely have no application to the present case. It is not the case where the appellant obtained certificate treating him as KondaKapu and obtained employment and thereby cheated the Government benefits meant for STs. Furthermore as on this date the appellant not availed any benefit under ST quota. As on this date, there is no caste certificate issued by the competent authority treating the appellant as person belongs to ST community. The appellate authority misguided himself in quoting Sections 10, 11 and 12 of the Act 16 of 1993. It is only in all hastiness to punish the appellant the said observation and findings were given though the said sections have no application.

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viii) In view of the said findings given the Police will initiate case and at any moment the Police will arrest and in such an event, the appellant will suffer irreparable loss and damages and thereby the entire orders are illegal and arbitrary.

4. For the above reasons, the Appellant in the Appeal Miscellaneous Application prayed the Honourable Government to suspend the operation of the orders passed by the District Collector, Khammam in Rc.No.D3-2702/2003, dated 14.6.2011 pending disposal of the Appeal and to pass such other order or orders as the Honourable Government may deem fit and proper in the circumstances of the case.

5. In the reference 3<sup>rd</sup> read above Government has admitted the Appeal and requested the District Collector, Khammam to furnish parawise remarks and original connected records.

6. The Appellant Sri Pothula Srinivasarao S/o Sesehagiri Rao has also filed WP No.21831 of 2011 before the Hon'ble High Court of Judicature, Andhra Pradesh at Hyderabad. The Hon'ble High Court has disposed the said WP on 11.8.2011 making the following order (operative portion):

"Accordingly, the Writ Petition is disposed of permitting the petitioner to prefer a revision as provided under Section 8 of the Act within a period of two weeks from the date of receipt of a copy of this order. If any such revision petition is preferred within the time prescribed above, the 3<sup>rd</sup> respondent shall consider the same and pass appropriate orders following due process of law as expeditiously as possible, preferably, within a period of three months from the date of filing of the revision petition. Till such time, there shall be a direction to the respondents not to initiate any disciplinary proceedings and not to take any coercive steps pursuant to the 2<sup>nd</sup> respondent's order dated 14.06.2011."

7. In the reference 6<sup>th</sup> read above, the Collector & District Magistrate, Khammam has submitted parawise remarks and record bearing file No.D3-2702-03.

8. In the reference 7<sup>th</sup> read above, the Government requested the Commissioner of Tribal Welfare, Hyderabad/ the Director, TCR&TI, Hyderabad to conduct the enquiry in the appeal petition of Sri Pothula Srinivasarao S/o Sesehagiri Rao and furnish the enquiry report to Government.

9. In compliance to Govt. Memo.No.10157/TW.LTR/2011, dated 27.05.2016 and 14.09.2018, the Director (I/c.) TCR&TI, TS, Hyderabad in the reference 8<sup>th</sup> read above has submitted genealogical and anthropological field enquiry report on the genuineness of ST status claim of Sri Pothula Srinivasa Rao. Gist of which is as under:

- The Appellant stated that his grandfather worked in Revenue Department and his father worked in Agriculture Department. Marriage by mutual love and elopement are in vogue in their community. Their community does not have their own dialect and he cannot speak other tribal dialect. Their community people are traditionally permitted to dine with all caste people. Their community's traditional festivals are Dasara and Sankranthi and don't know about the Gods/Goddesses they traditionally worship. Their household/clan deity is Gaukalu and Korrajulu.
- His mother stated that they belong to Kapu community and her husband SeshagiriRao is her father's sister's son.
- Pothula Vinaya Kumari D/o Venkatsehar Rao (cousin of P.Srinivasa Rao) stated that from long back (from their birth) they are living in Bhadrachalam. Their forefathers and their family members doing jobs on Kapu caste certificates only. Her father Venkateswar Rao has two brothers 1) Pothula Nageswar Rao and 2) Pothula Seshagiri Rao.

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- The team obtained Transfer Certificate of Vinaya Kumari's sister named Padmavathi, Anganwadi Teacher, TC No.81982 issued by Principal, Govt. Junior College, Bhadrachalam. In caste column, it is mentioned that MunnuruKapu BC. She also stated that Pothula Srinivasa Rao is her cousin brother (father's brother's son).
- Statement was obtained from Pothula Rama devi D/o Seshagiri Rao (sister of P.Srinivasa Rao) of Bhadrachalam. She stated that their family/ forefathers are living in Bhadrachalam since 100 years and they belong to Kapu community. She has four sisters and one brother namely 1) Pothula Ramadevi 2) Pothula Srinivasa Rao 3) Pothula Vijaya Laxmi 4) Pothula Vijaya Sri and 5) Pothula Venkata Anuradha.
- Statement was obtained from V. Ram Babu, a neighbor – he stated that he knows the appellant and came to know from other neighbours that he belongs to Kapu community.
- Team has verified SR book of the appellant. In SR Book, caste column is not mentioned. The appellant stated that he has not obtained ST Kondakapu caste certificate and was appointed as Daily Wage worker in Devasthanam. His job was regularized on 1.7.2000.
- The information collected by the enquiry team and information furnished by the individual, his relatives and neighbours do not substantiate his claim as belonging to KondaKapu community.
- The individual's natural sister Pothula Ramadevi, his cousin Vinaya Kumari stated that they belong to Kapu community. Individual's natural sister Pothula Venkata Anuradha working as ANM in ThirumalayapalemMandal. Her caste mentioned was as BC-D in her Service Book.
- **Genealogical evidences** – The marital and affinal relationships of the candidate & candidate's natural sisters are complex and are not confined to single caste/community. The Pothula surname and the clan of the individual is uncommon among the Konda Kaputribes. Further, the Konda Kapu community has only surnames and they don't have clans. His grandfather, father and individual himself married women belonging to Kapu community. His natural sisters are married to Telaga, Goud and Muslim community persons. From this, it can be seen that the individual has never been in KondaKapu tribal fold.
- **Ethnographic evidences: Culture, Rituals** – In his written statement, the individual stated that from the past 100 years they are living at their permanent place of residence i.e. H.No.6-1-88, Pothula Street, Bhadrachalam, BahdradriKothagudem District and Bhadrachalam is not the traditional habitat for KondaKapu community.
- The worship of Gangamma, Bhudevi, Konda Devata, SeetapaTalli, Bapamanna deities which are in vogue among Kondakapu Community and festivals like jatarakotta, Bushamakotta, Kandikota celebrated among KondaKapu community are not familiar to the candidate.

10. The Director, TCR&TI, TS, Hyderabad has concluded that there are no substantial evidences in support of the individual's ST status claim.

11. In the reference 9<sup>th</sup> read above, notices were issued to the appellant and all other concerned to attend for hearing on 07.12.2019, 7.3.2020 and 29.09.2020 at 3.00 PM. Appellant and his counsel called absent.

12. The Government have examined the evidences available on record and observed that the issue is for grant of Kondakapu ST caste certificate to the Appellant which has been pending for no valid reason since 30.7.2001 i.e. for more than 21 years, before the Mandal Revenue Officer, Bhadrachalam, before the District Collector, Khammam and now before the Government by way of Appeal.

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13. The claim of the appellant Sri Pothula Srinivasa Rao S/o Seshagiri Rao R/o.Bhadrachalam, for issue of Kondakapu ST caste certificate is based on the Caste Certificate issued to his father by the Special Asst. Agent, Bhadrachalam and entries made in his school records while on the other hand all other evidences amply prove that he belongs to Kapu community. According to Section 6 of the Act 16/1993, the burden of proving that he belongs to such caste, Tribe or class heavily casts on the appellant, but he failed to do so.

14. Therefore, the Appeal filed by Sri Pothula Srinivasarao S/o.Seshagiri Rao, Record Asst., Sri Seetharamachandraswamy Vari Devasthanam, Bhadrachalam, Khammam District is found devoid of merits and accordingly DISMISSED upholding orders of the Collector & District Magistrate, Khammam in Procs.No.D3-2702/2003, dated 14.6.2011 to the extent of rejecting the claim of the Appellant for issue of Kondakapu ST Caste Certificate and set aside for initiation of disciplinary/criminal action as the sections 10, 11 and 12 of the Act 16/1993 do not have any application to the case since the Appellant has not obtained any ST community certificate furnishing false information nor found availed any benefits meant for Scheduled Tribes including appointment by election to political offices etc.

15. The Collector and District Magistrate, Khammam/Bhadrdr Kothagudem Districts shall take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr. CHRISTINA Z.CHONGTHU,  
SECRETARY TO GOVERNMENT.

To

The Collector and District Magistrate,

Khammam/Bhadrdr Kothagudem Districts (By RPAD)

Sri Pothula Srinivasarao, S/o Seshagiri Rao,

Occ:Record Assistant, Sri Seetharamachandraswamy Vari Devasthanam,

R/o. H.No.6-1-88, Pothulvari Street, Bhadrachalam,

Bhadrdr Kothagudem District (By RPAD)

Copy to:-

M/s. P.V. Ramana, Mrs. Baby Rani, M. Ramakrishna &

P. Perraju, Advocates, Flat No. 1, Banjara Sangeet Apartments,

Kapadia Lane, Hyderabad – 500 082.

The Tahsildar (Mandal Revenue Officer), Bhadrachalam,

Bhadrdr Kothagudem District (Serve the copy of the same to the appellant).

The Director, TCR &TI, TS, Hyderabad (for information)

The Government Pleader for Social Welfare, High Court Buildings, Hyderabad.

The P.S. to Minister for ST Welfare (for information)

The PS to Secretary to Govt. (TW)

The PA to Special Secretary to Govt.(TW)

SF/SC.

//FORWARDED::BY ORDER//

SECTION OFFICER.